

Notice of Allowability

Application No.

10/800,810

Examiner

Gina C. Yu

Applicant(s)

FARYNIARZ ET AL.

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicants' response filed on May 31, 2007.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20070827.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Milton Honig on August 27, 2007.

The application has been amended as follows:

Cancel claim 6.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claims 1-4 are allowed.

Paniccia (Poucher's Perfumes, Cosmetics and Soaps, 2000) generally teaches that shaving formulations use moisturizers, such as glycerol. See p. 351-353. The reference does not specifically teach using malonic acid or its salts.

Jokura (US 5,641,495) teach the use of the amine salts of malonic acid salts moisturize the skin without irritation, but does not teach or suggest using malonic acid or the salts to overcome in-grown hair. Since the teaching of the Jokura reference does not particularly mention efficacy of malonic acid or its salt in treating disorders associated with in-grown hair, examiner views that one skilled in the art would not have found a specific motivation to employ malonic acid or its salts as claimed by the present applicant.

Curtis (US 5962018) teaches that therapeutic organic acids, which are useful for treating dry skin, ichthyosis, nails, cuticles, and hair, are also useful for treating disorders associated with ingrown hair. The reference teaches that those acids soften hair and aid in the elimination of ingrown hair. The reference is directed to using hydroxycarboxylic acid, but no mention of malonic acid, which is a dicarboxylic acid, is made in the reference.

Thus, even in view of the combined teachings of the cited references, a skilled artisan would not have found any teaching, suggestion, or motivation to select malonic acid or its salt to overcome in-grown hair as claimed by applicants. Applicants also disclose in specification a comparison data of the efficacy of malonic acid salt and salicylic acid salt (a beta hydroxycarboxylic acid), which indicates that malonic acid salts better performs than salicylic acid salts in eliminating razor burn/itchiness and in-grown hairs forming among the panelists involved in the study. See p. 20—23. Thus, based on the evidence of the record, it is viewed that the claimed use of malonic acid and salts to overcome ingrown hair would have been nonobvious to a skilled artisan at the time of the present invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-8605.

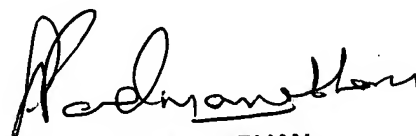
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The examiner can normally be reached on Monday through Friday, from 8:00AM until 5:30 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gina C. Yu
Patent Examiner


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER